

APPEAL NO. 031653
FILED JULY 31, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on May 20, 2003. The appellant (claimant) did not appear at the hearing. The hearing officer issued a letter requiring the claimant to respond in ten days to reschedule the hearing. The hearing officer indicated that the claimant did not respond and issued his decision. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and did not have disability. The claimant appeals, asserting that he responded to the letter within the time requested. A copy of the claimant's response and facsimile confirmation sheet were attached to the appeal. The respondent (carrier) urges affirmance.

DECISION

Reversed and remanded.

As stated above, the claimant failed to appear for the CCH scheduled on May 20, 2003. The hearing officer issued a letter, on May 20, 2003, requiring the claimant to respond in ten days to reschedule the hearing. The claimant contends that he responded by letter on May 28, 2003. The claimant represents that his response was sent to the Texas Workers' Compensation Commission (Commission) by regular mail and facsimile. A copy of the letter and facsimile confirmation sheet is attached to the appeal. The facsimile confirmation sheet shows that the letter was sent to the correct fax number for the (city) Local Office on May 28, 2003. The Commission's records, however, indicate that no response was received from the claimant. Under the circumstances presented here, we believe it is appropriate to reverse and remand the hearing officer's decision. *Compare* Texas Workers' Compensation Commission Appeal No. 991155, decided July 15, 1999. On remand, the hearing officer should schedule another CCH, order the claimant to attend, afford him the opportunity to show good cause for failing to attend the CCH on May 20, 2003, and issue a decision on the merits of the injury and disability issues, in accordance with the general procedures in Texas Workers' Compensation Commission Appeal No. 970121, decided March 6, 1997.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Commission's Division of Hearings, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods.

The true corporate name of the insurance carrier is **FEDERAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PARKER W. RUSH
1445 ROSS AVENUE, SUITE 4200
DALLAS, TEXAS 75202-2812.**

Edward Vilano
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge